IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS MARSHALL DIVISION

 $oldsymbol{\omega}$

MASS ENGINEERED DESIGN, INC. And JERRY MOSCOVITCH

Plaintiffs, Counter-defendants, Cross-claimants,

VS.

ERGOTRON, INC., DELL INC., CDW CORPORATION, and TECH DATA CORPORATION

Defendants, Counterclaimants,

and

DELL MARKETING L.P.,

Defendant, Counterclaimant JUDGE: LED

Civil Action No. 02-06CV-272

JURY TRIAL DEMANDED

NOTICE OF PROPOSED TECHNICAL ADVISORS

Please take notice that, in compliance with the Docket Control Order dated November 6, 2006, and the Local Patent Rules, Plaintiffs, MASS Engineered Design, Inc. and Jerry Moscovitch (collectively "MASS"), advise the Court that the parties have not been able to reach an agreement as to any potential technical advisor.

On September 14, 2007, MASS provided the names and curriculum vitaes of three technical advisors. Today, for the first time, Defendants responded concerning MASS' proposed technical advisors, rejected all three nominees, and proposed three additional names. The parties are unable to reach an agreement as to any potential technical advisor.

DATED: September 20, 2007 Respectfully submitted,

> By: /s/ Justin A. Nelson by permission SCC Max L. Tribble, Jr. - Lead Attorney State Bar No. 20213950 mtribble@susmangodfrey.com Justin A. Nelson State Bar No. 24034766 inelson@susmangodfrey.com Stephen F. Schlather State Bar No. 24007993 sschlather@susmangodfrey.com 1000 Louisiana Street, Suite 5100 Houston, Texas 77002

Telephone: (713) 651-9366 Facsimile: (713) 654-6666

Otis W. Carroll State Bar No. 03895700 nancy@icklaw.com IRELAND, CARROLL & KELLEY, P.C. 6101 South Broadway, Suite 500 P.O. Box 7879 Tyler, Texas 75711 Telephone: (903) 561-1600 Facsimile: (903) 561-1071

Franklin Jones, Jr. State Bar No. 00000055 maizieh@millerfirm.com JONES AND JONES, INC., P.C. P.O. Drawer 1249 Marshall, Texas 75671-1249 Telephone: (903) 938-4395 Facsimile: (903) 938-3360

Gregory L. Maag State Bar No. 12748500 gmaag@conleyrose.com Jonathan M. Harris State Bar No. 00796713 jharris@conleyrose.com CONLEY ROSE, P.C. 600 Travis Street, Suite 7100 Houston, Texas 77002 Telephone: (713) 238-8000

Facsimile: (713) 238-8008

S. Calvin Capshaw State Bar. No. 03783900 ccapshaw@mailbmc.com Elizabeth L. DeRieux State Bar No. 05770585 ederieux@mailbmc.com BROWN McCARROLL, L.L.P. 1127 Judson Road, Suite 220 P.O. Box 3999 Longview, Texas 75601-5157 Telephone: (903) 236-9800

Facsimile: (903) 236-8787

Robert M. Parker State Bar No. 15498000 Parker, Bunt & Ainsworth, P.C. 100 E Ferguson Street, Ste. 1114 Tyler, TX, 75702 Telephone: 903-531-3535

ATTORNEYS FOR MASS ENGINEERED **DESIGN, INC. AND JERRY MOSCOVITCH**

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument was filed electronically in compliance with Local Rule CV-5(a)(3) and has been served this 20th day of September, 2007 on the counsel of record who are deemed to have consented to electronic service via the Court's CM/ECF system. Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

> /s/ S. Calvin Capshaw S. Calvin Capshaw